

### **REMARKS/ARGUMENTS**

The Examiner is thanked for the review of the application.

Claims 1-20 remain in this application. Claims 1-4, 8-10, 12, 13 and 17-20 have been amended. No new material has been added.

In the Office Action dated March 20, 2007, the Examiner has objected to Claims 1 and 3 stating that "Claims 1 and 3 are objected to because of the following informalities: Claim 1, the third claim limitation recites 'generating imputed variables, using the computer system, wherein said imputed variables are generated by imputing at least one missing data point when the at least one data point is missing'. This claim limitation is redundant. The claim limitation would be better recited as 'generating imputed variables, using the computer system, wherein said imputed variables are generated by imputing at least one missing data point;'. It is understood that 'the data point is missing'. Claim 3 has a similar problem."

Claims 1 and 3 have been amended according to the Examiner's suggestion as to eliminate said redundancy. As such, Applicants respectfully traverse the objection.

Also, in the Office Action dated March 20, 2007, the Examiner has rejected Claims 1 and 3 under 35 U.S.C. 112, second paragraph, stating that claims are "indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 recites 'cleaning the sales data' and claim 3 recites 'cleansing the sales data'. It is unclear what Applicants' mean by 'cleaning the sales data' and 'cleansing the sales data'. Do Applicants' mean in claim 3 for claim 3 to recite 'cleaning the sales data' in order to be in agreement with claim 1? Applicants' are respectfully requested to point out in the specification where 'cleaning the sales data' and 'cleansing the sales data' are defined."

Cleaning is defined in the specification on page 13, lines 5-8 of the specification as filed which states: "The process of dataset creation and cleaning (that is to say the process of identifying incompatible data records and resolving the data incompatibility, also referred to herein as "error detection and correction") begins by inputting raw econometric data (Step 1011)."

Cleansing is defined in the specification on page 28, lines 8-14 of the specification as filed which states: "The foregoing steps (1011-1031) concern cleansing the raw econometric data to create an error detected and error corrected ("cleansed") initial dataset. The cleansed initial dataset created in the foregoing steps can now be used to generate a variety of useful imputed econometric variables (Step 1033)."

Applicants assert that "cleansing" and "cleaning" are synonymous as used in the specification, and utilized interchangeably in the specification as filed. However, Applicants have amended Claim 1 to state "cleansing the sales data, using the computer system;" in the interest of consistency and agreement with Claim 3. As such, Applicants believe that Claims 1 and 3 are in compliance with 35 U.S.C. 112.

Also, in the Office Action dated March 20, 2007, the Examiner has rejected Claims 1-4, 8, 9, 10, 13, 17 and 19 under 35 U.S.C. 112, second paragraph, stating that claims "recite 'store' which is very vague and indefinite. It is unclear from the claim language whether Applicants' mean 'a place to store data' or a 'merchandise store' which deals with inventory and product sales."

Claims 1-4, 8-10, 12, 13, 17 and 19 have been amended to clarify which "store" is referred to by the addition of "merchandise" as a clarifier. Additionally, in response to the Examiner's concern of the indefiniteness of the term "store", base Claims 1 and 3 have been amended to recite, in relevant part: "wherein the at least one merchandise store includes at least one of a 'brick-and-mortar' store, an 'online' store, and a 'catalog' store." It is well known that merchandising stores exist as physical locations; an example of such a physical store includes Safeway®. Likewise, online stores are well known; an example being amazon.com® and safeway.com®. Lastly, catalog stores, where orders may be placed via the phone or by postal mail, are also very well known. An example of a catalog store is Macy's Catalog®. Moreover, it

is well known that a merchandise store may be a combination of these store models. An example of a combination includes Sears<sup>®</sup>, which has a catalog store, an online store, as well as physical “brick-and-mortar” stores. Additional combinations of merchandise stores also may exist and are well known, including flyer based catalog stores, email based online stores and telemarketing based catalog stores. As such, Applicants believe that Claims 1-4, 8, 9, 10, 13, 17 and 19 are in compliance with 35 U.S.C. 112.

Also, in the Office Action dated March 20, 2007, the Examiner has rejected Claims 1, 3, and 18-20 under 35 U.S.C. 112, second paragraph, stating that claims “contain a clause of intended use in the independent claims which renders the claims indefinite. Specifically, claim 1 after the second claim limitation recites ‘wherein said imputed variables are generated by imputing at least one missing data point . . .’. The Examiner considers these limitations to only recite what is expected to happen, a desired result, or an intended use. The MPEP [§ 21 11.04] discusses a type of limitation in reference to ‘wherein’ clauses.”

Base Claim 1 has been amended to recite in relevant part: “generating imputed variables, using the computer system, by imputing at least one missing data point;”

Likewise, base Claim 3 has been amended to recite in relevant part: “an econometric engine for receiving sales data from at least one merchandise store via the network, cleansing the sales data and generating imputed variables by imputing at least one missing data point; and”

Support for amendments to base Claims 1 and 3 may be found on page 24, lines 5-17 of the specification as filed, which states “FIG. 11 depicts a process flow embodiment for determining the nature of missing data records in a fourth error detection and correction step . . . Each missing record is compared to the average units (Step 1113) and based on this comparison, a correction can be made (Step 1115).”

Dependent Claims 18, 19 and 20 have been amended to recite in relevant part: “where”.

Applicants believe that amended Claims 1, 3, and 18-20 are now definite as they no longer include the term “whereas”. As such, Applicants believe that Claims 1, 3, 18-20 are in compliance with 35 U.S.C. 112.

Also, in the Office Action dated March 20, 2007, the Examiner has requested the source of formulas found in the specification stating: "Applicants' are respectfully requested to submit any evidence regarding the formulas in the Applicants' Specification and claims in an effort to advance prosecution of the application."

Applicants submit that generic sales model equations similar to the equation recited in Claim 18 may be sourced to formulas 7.8 and 7.8a in the referenced book *Sales Promotions: Concepts, Methods and Strategies*. (See, R Blattberg, S. Neslin, *Sales Promotions: Concepts, Methods and Strategies*, Englewood Cliffs, New Jersey: Prentice Hall, 1990.) Likewise, generic share model equations similar to the equation recited in Claim 20 may be sourced to formulas 7.6 and 7.7 in the referenced book *Sales Promotions: Concepts, Methods and Strategies*. (See, R Blattberg, S. Neslin, *Sales Promotions: Concepts, Methods and Strategies*, Englewood Cliffs, New Jersey: Prentice Hall, 1990.)

Nevertheless, Applicants assert that the specific form of the equations as Claims 18 and 20, as well as the causal variables used in these equations, are novel. An example is the concept and use of the base-price variable ( $P_{Bi,k,t}$ ) within Applicants' novel equations.

In addition, the sales model equation found in Claim 19 and on page 69, line 1 of the specification as filed, is novel and unique to the Applicants.

Applicants believe the above discussion clarifies the source of equations in response to the Examiner's request.

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In sum, base Claims 1 and 3 have been amended and are believed to be allowable. Dependent Claims 2, 4, 8-10, 12, 13 and 17-20 have been amended and are believed to be allowable. Dependent Claims 2, 4-20 which depend therefrom are also believed to be allowable as being dependent from their patentable parent Claims 1 and 3 for at least the same reasons. Hence, Examiner's rejections of dependent claims 2, 4-20 are rendered moot in view of independent Claims 1 and 3. Applicants believe that all pending Claims 1-20 are now allowable over the cited art and are also in allowable form and respectfully request a Notice of Allowance for this application from the Examiner. The commissioner is authorized via EFS (credit card) the amount of \$450.00 to cover the two-month extension fee. The commissioner is authorized to charge any fees that may be due to our Deposit Account No. 50-2766 (Order No. DEM1P004). Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at telephone number 925-570-8198.

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Respectfully submitted,

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